

**REMARKS**

In accordance with foregoing, the independent claims 3, 5, 7, 9, 15 and 16 have been amended to recite a "first user" and a "first user terminal" thereby to distinguish a terminal, used by a first user, from another terminal, used by a third-party user, as subsequently recited in each claim.

Independent claim 3 is amended to correct a recitation therein, which lead the Examiner to interpret claim 3 as requiring only one of two alternative conditions (i.e., one "or" the other) - - when, instead, what was intended is that a comparison is made of an average reaction times with each of first and second threshold values, as later discussed.

Furthermore, the common last paragraph of each of claims 5, 15, and 16 has been commonly amended to further define the existing recitations therein of "involvement", "parallel input" and "update" and thereby clarify the progressive interaction modes of a third party user, as set forth in these claims. As discussed below, these amendatory recitations render altogether clear that the "progress of interaction" in accordance with the present invention and as recited in claims 5, 15, and 16 is not taught or suggested by Davis or any other reference.

Further, new independent claims 17 and 18 are presented, which are "method" and "computer-readable medium..." claim counterparts of the independent "voice interactive system" claim 7. (In like fashion, claims 15 and 16 are similar such counterparts of independent "voice interaction system" claim 5).

**STATUS OF CLAIMS**

Claims 3 and 5-18 are pending.

Claims 7, 12 and 14 are allowed.

Claims 3, 5, 6, 8-11, 15 and 16 are rejected.

Claims 17 and 18 are newly added.

**ITEMS 1-4: EXAMINER'S RESPONSES TO AMENDMENTS AND ARGUMENTS OF PRECEDING RESPONSE IN RELATION TO CLAIM 3 AND TO CLAIMS 5, 15, AND 16**

In Item 1, the Examiner notes the amendatory claim limitations, discussed at page 13 of the preceding Response, regarding:

a comparison between the upper and lower limit(s) of a reaction time; and

three modes of third-party assistance involvement.

In Item 4, the Examiner asserts that the arguments based on the above amendments were not persuasive, for reasons detailed in pages 3-4 of the Action.

**CLAIM 3 (AT PAGE 3 OF THE ACTION)**

As to claim 3, which involves the first above-quoted limitation, the Examiner asserts that the argued feature of a “comparison between an upper and a lower limit” is not claimed. Instead, an upper or a lower limit is used to initialize assistance from a third party, as claimed. The Examiner therefore asserts that the timeout threshold of Marx, used for determining whether it is necessary to transfer a user to an operator, is a sufficient teaching to support the rejection of claim 3.

Applicants agree that claim 3 does not recite a “comparison between an upper limit and a lower limit of the reaction time in the ordinary interaction,” as was argued at page 13 of the Remarks in the last Response, and apologize for the unintentional misstatement. What was intended is that a user’s reaction time is compared with the upper and lower limits to determine if the reaction time is - - or is not - - in a range between those upper and lower limits, or thresholds.

Claim 3 as amended in the foregoing is consistent with the teaching of the invention (see e.g., pages 10-11 of the specification), of responding to alternative conditions which cause a user’s reaction time not to be within the “predetermined range...(in which an)... interaction is being smoothly conducted” (page 10, lines 7-8; emphasis added). Thus, in a “redundant” interaction, reaction times become shorter and the average reaction time falls below a first predetermined threshold value that is “a lower limit of a reaction time in ordinary conversation...” (page 10). Conversely, when a user “cannot follow” the contents of an interaction, reaction time is likely to become longer, gradually, such that “an average reaction time exceeds a second predetermined threshold value (i.e., an upper limit of a reaction time in ordinary interaction). In either of these cases of the average reaction time falling below a lower limit threshold value or exceeding an upper limit threshold value, steps are taken to cause operator participation.

Indeed, the Examiner’s analysis of claim 3 and reliance on Marx as teaching only a single timeout threshold indicates that the Examiner agrees with the Applicants’ above analysis of the distinction of the invention, as now defined in claim 3, over Marx. Particularly, at page 3 of the current Action, the second paragraph, the Examiner asserts that, in the present invention, while a comparison between upper and lower limits is not claimed, what is claimed is that:

only... an upper lower limit or lower limit is used to initialize assistance from a third party....

(Emphasis in original) The Examiner then concludes:

Thus, since Marx teaches a timeout threshold for determining whether it is necessary to transfer a user to an operator, the rejection of claim 3 is maintained.

(Action at page 3, third paragraph)

In a more detailed analysis, the Examiner's citations of Marx at column 8, lines 20-31 and column 9, lines 52-65 (see page 3 of the present Action and page 8 of the prior Action) disclose only conditions of "success," "timeout" and "error" - - "success" relating to a successful completion of a dialog task and the latter conditions of "timeout" and "error" indicating, respectively, no response or a response which could not be recognized by the system. Thus, the "timeout" and "error" conditions are analogous, at most, to the upper threshold as employed in the present invention.

Accordingly, it is submitted to be clear that Marx discloses no recognition or suggestion of a lower threshold condition as taught by the present application, much less the combination of same with an upper threshold condition which establish a predetermined range therebetween, such that if an average reaction time falls within that range, the user interaction is being smoothly conducted, but if the average reaction time falls below or above the lower and upper limits of that range, respectively, third party participation is initiated, all as recited in claim 3.

#### **CLAIMS 9 AND 10**

The Examiner asserts that in the prior Response:

"the Applicant provides no specific arguments directed towards the rejection of claims 9 and 10. Thus, the below rejection is considered to be a sufficient response."

(Action at page 4)

It is submitted that the Examiner errs in this contention.

More particularly, Applicants' prior Response (Facsimile transmission dated December 20, 2004) at page 12 set forth, as a group, all of the rejections of Items 6-10 - - and in item 6 and item 10 of which claims 9 and 10, respectively, were rejected for anticipation and obviousness, respectively, over Bohacek et al. (The additional references to Marx et al. and Davis et al. were relied upon only in Items 8 and 9.)

Applicants accordingly were addressing the substance of the Examiner's rejections of claims 9 and 10 in Items 6 and 10, respectively taking into account also Item 8 of that first Office

Action (which, incidentally, related to claims 2 and 3) wherein the Examiner conceded that:

Bohacek does not specifically suggest the ability to transfer a call to an operator when a response reaction time limit is exceeded....

(First Office Action at page 7, second full paragraph)

Claims 3, 9, and 10 commonly recite the feature of determining that a user's "interaction...is not being smoothly conducted, allowing a third-party to participate... in the interaction between the first user and the interaction engine...from another terminal...." While Applicant may not have "called out" claims 9 and 10 specifically, clearly, the identical argument made in relation to claim 3 related as well to claims 9 and 10, since substantively identical recitations exist in all three of these claims. To the extent that the foregoing was not apparent in the prior response, Applicant submit that it is now expressly urged in traverse of the rejection of claim 3 as well as claims 9 and 10.

Significantly, none of the Examiner's citations of the Bohacek and Marx et al. disclosures make any reference to the claimed function of allowing a third-party to "participate...in the interaction between the first user and the interaction engine...from another terminal...." Instead, the Examiner conceded both in the first Office Action and now in the Final Office Action, that Bohacek provides no disclosure even of the ability to "transfer a call to an operator when a response reaction time limit is exceeded...." - - and relies for that teaching on Marx. However, Marx et al. has no teaching of a third party participating in the on-going interaction between the first user and the interaction engine from another terminal - - as all of claims 3, 9, and 10 commonly recite. Indeed, the Examiner focuses only on Marx purportedly satisfying the admitted absence of any teaching of Bohacek "to transfer a call to an operator when a response reaction time is exceeded..." (first Office Action at page 7, second full paragraph, quoted above as well). The present invention has been shown not to be restricted merely to transferring a call to an operator nor to do so only when a response reaction time limit has been exceeded.

Accordingly, it is submitted that all of claims 3, 9, and 10 distinguish over the references taken in any proper combination.

#### **CLAIMS 5, 15 AND 16**

The Examiner addresses claims 5, 15 and 16 at pages 3-4 of the present Action.

Claim 5 addresses a feature of the invention which:

“determines a progress of interaction in accordance with an interaction time from a beginning of the interaction between the first user and the interaction engine and the number of accesses from the user terminal to the interaction engine, and

changes a partition mode of the third-party user successively, in an increasing order of progress of interaction, from 1) involvement, 2) parallel input, to 3) switching....”

(Emphasis added).

The closing paragraph of claim 5, as now amended, recites in further detail these three, successive and different participation modes.

Independent claims 15 and 16 are counterparts of claim 5, respectively presenting “method” and “computer-readable medium storing a program” limitations

The prior Response, traversing the rejection of claim 5 over the combination of Bohacek et al., Marx and Davis, pointed out that the system of Davis, particularly in column 11, lines 48-58, relied upon in the first Office Action, is “different from that of claim 5.” The Examiner answered in the Final Office Action that, to the contrary:

“Davis teaches progressive modes of interaction operation including updating user data at an operator terminal, parallel input of data, and telephone call transfer for direct interaction (Col. 8, lines 19-35 and Col. 11, line 48-58).”

(Action at page 3)

It is respectfully submitted that the Examiner ignores the successive character of the processing performed in accordance with the present invention, as claimed, and contends simply that any change between different types of communication, between a user and the system or an operator, as taught by Davis, corresponds to the recited “progressive interaction” feature of the present invention and specifically the successive, different types of “participation modes...of the third-party user.” It is respectfully submitted that the Davis reference does not support the Examiner’s reliance on same for the rejection of claims 5, 15 and 11.

Column 11, lines 48-58 of Davis relates simply to initiating communications by a telephone call from the user (VRU 35) to a live operator and then selecting, through menu options, types of commands to change the information being exchanged -- and such that “the client and operator directly communicate in either voice or data mode” (column 11, lines 56-58). This does not relate to a “progressive mode of interaction” as recited in the rejected claims -- and which, instead, provide, in the successive modes, an increased order of interaction of the

third party with the user, ranging in progression from participating in the interaction between the third party and the interaction engine to, in a final stage, directly interacting with a third party to the exclusion of the interaction engine. Davis, instead, teaches at best a single stage in which the interaction is interrupted and the operator then speaks directly with the user.

Column 8, lines 18-35 of Davis, on the other hand, relates to synchronizing visual forms between stations in accordance with different embodiments having many features in common and wherein "each station automatically updates its visual form to reflect actions received from the other station." Thus, the visual forms of both stations are synchronized (col. 8, lines 33-35). Clearly, this portion of Davis does not disclose or even suggest the "progressive modes of interaction" recitations of the claims.

Thus, none of these portions of Davis, cited by the Examiner, has any bearing on determining a "progress of interaction..." as defined in the closing, common paragraphs of claims 5, 15 and 16 so as to change "a participation mode of the third-party user successively, in an increasing order of progress of interaction..." proceeding through the three originally recited interactions - - much less the further defined definitions of those three participation modes as are recited in the last paragraph of each of claims 5, 15, and 16, as amended hereinabove.

#### **CLAIMS 11/5 AND 13/5**

Claims 11/5 and 12/5 are submitted to be allowable, based on the above traverse of the rejection of independent claim 5.

#### **CLAIMS 15 AND 16**

These independent method and recording medium claims 15 and 16 should be allowable on the same grounds advanced above in the traverse of the rejection of claim 5.

#### **NEW CLAIMS 17 AND 18**

New claims 17 and 18 are based on allowable claim 7 and should be allowable as well.

**ABSENCE OF PRIMA FACIE OBVIOUSNESS**

The Examiner also asserts that Applicants argued that "the prior art of record is not properly combinable..." but that the Applicant "provides no reasons as to why..." Applicants respectfully submit that the Examiner errs in this contention. The burden is on the Examiner to demonstrate *prima facie* obviousness, as explicitly required in MPEP 2143.2143.03 - - and which Applicants contended in the prior Response, and contend again in this Response, has not been satisfied in the prosecution record herein. Instead, as in Item 8 of the present Action, the Examiner relies on the discredited contention that "it would have been obvious to a person of ordinary skill in the art..." to combine the teachings of Bohacek and Marx to arrive at Applicant's invention" - - even though neither reference in itself teaches the range between lower and upper threshold values indicative of an interaction which is being smoothly conducted, much less the progressive interaction which is instituted when either of those upper and lower thresholds is not satisfied by the reaction time, as variously set forth in the pending claims herein as discussed hereinabove.

**CONCLUSION**

It is respectfully submitted that the foregoing has demonstrated that all pending claims patentably distinguish over the references, taken singularly or in any proper combination. There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

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If there are any additional fees associated with filing of this Preliminary Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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